

EXHIBIT 1

INTRODUCTION

Respondent Yes on Measure G is a committee primarily formed on January 9, 1998 to support the passage of Measure G, a \$50 million bond measure for the Berryessa Union School District that appeared on the April 14, 1998 ballot in Santa Clara County. This committee received \$67,053 in contributions, and made \$60,092 in expenditures, in an unsuccessful effort to gain passage of the measure.

In 1999, following the defeat of Measure G, proponents of a bond measure for the Berryessa Union School District formed another committee, Respondent Committee for Measure B: Measure B for Berryessa. This committee was primarily formed to support the passage of Measure B, a \$48 million bond measure that appeared on the November 2, 1999 ballot in Santa Clara County. Respondent Committee for Measure B raised \$60,190 in contributions, and made \$59,057 in expenditures, in a successful effort to gain passage of the measure.

Respondent Lawrence S. Nichols, also known as Larry Nichols, is the treasurer of both committees.

During the course of both election campaigns, Respondents committed numerous campaign filing and reporting violations. Among the violations, Respondents filed campaign statements late, or not at all, and filed campaign statements lacking complete disclosure. While the elections are now long past, Respondents still have not terminated their filing obligations, despite repeated requests that they do so, and as a result, continue to incur new filing violations.

For the purposes of this Default, Decision and Order, Respondents' violations of the Political Reform Act (the "Act")¹ are as follows:

COUNT 1: In a first pre-election campaign statement filed on March 6, 1998, for the reporting period January 1, 1998 to February 28, 1998, Respondents Yes on Measure G and Lawrence S. Nichols failed to disclose occupation and employer information for individual contributors of \$100 or more, in violation of section 84211, subdivision (f).

COUNT 2: In a second pre-election campaign statement filed on April 2, 1998, for the reporting period March 1, 1998 to March 28, 1998, Respondents Yes on Measure G and Lawrence S. Nichols failed to disclose occupation and employer information for individual contributors of \$100 or more, in violation of section 84211,

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in sections 18109 through 18997 of title 2 of the California Code of Regulations. All regulatory references are to title 2, division 6 of the California Code of Regulations, unless otherwise indicated.

subdivision (f).

- COUNT 3: Respondents Yes on Measure G and Lawrence S. Nichols failed to file a post-election semi-annual campaign statement for the reporting period March 29, 1998 to June 30, 1998, by the July 31, 1998 due date, in violation of section 84200, subdivision (a).
- COUNT 4: Respondents Yes on Measure G and Lawrence S. Nichols failed to file a semi-annual campaign statement for the reporting period July 1, 1998 to December 31, 1998, by the February 1, 1999 due date, in violation of section 84200, subdivision (a).
- COUNT 5: Respondents Yes on Measure G and Lawrence S. Nichols failed to file a semi-annual campaign statement for the reporting period January 1, 1999 to June 30, 1999, by the August 2, 1999 due date, in violation of section 84200, subdivision (a).
- COUNT 6: Respondents Committee for Measure B: Measure B for Berryessa and Lawrence S. Nichols failed to file a first pre-election campaign statement for the reporting period January 1, 1999 to September 18, 1999, by the September 23, 1999 due date, in violation of section 84200.8, subdivision (a).
- COUNT 7: Respondents Committee for Measure B: Measure B for Berryessa and Lawrence S. Nichols failed to file a second pre-election campaign statement for the reporting period September 19, 1999 to October 16, 1999, by the October 21, 1999 due date, in violation of section 84200.8, subdivision (b).
- COUNT 8: In a first pre-election campaign statement filed on November 1, 1999, covering the period August 1, 1999 to September 21, 1999, Respondents Committee for Measure B: Measure B for Berryessa and Lawrence S. Nichols failed to disclose occupation and employer information for individual contributors of \$100 or more, in violation of section 84211, subdivision (f).
- COUNT 9: In a second pre-election campaign statement filed on November 1, 1999, covering the period September 22, 1999 to October 19, 1999, Respondents Committee for Measure B: Measure B for Berryessa and Lawrence S. Nichols failed to disclose occupation and employer information for individual contributors of \$100 or more, in violation of section 84211, subdivision (f).
- COUNT 10: Respondents Yes on Measure G and Lawrence S. Nichols failed to file a semi-annual campaign statement for the reporting period July 1, 1999 to December 31, 1999, by the January 31, 2000 due date,

in violation of section 84200, subdivision (a).

COUNT 11: Respondents Committee for Measure B: Measure B for Berryessa and Lawrence S. Nichols failed to file a post-election semi-annual campaign statement for the reporting period October 17, 1999 to December 31, 1999, by the January 31, 2000 due date, in violation of section 84200, subdivision (a).

COUNT 12: In a post-election semi-annual campaign statement filed on March 23, 2000, for the reporting period March 29, 1998 to June 30, 1998, Respondents Yes on Measure G and Lawrence S. Nichols failed to disclose occupation and employer information for individual contributors, and the cumulative amount of contributions received from each contributor of \$100 or more, in violation of section 84211, subdivision (f).

COUNT 13: In a semi-annual campaign statement filed on March 23, 2000, for the reporting period March 29, 1998 through June 30, 1998, Respondents Yes on Measure G and Lawrence S. Nichols failed to report sub-vendor information for a \$36,273 payment to Terris & Jaye, in violation of section 84211, subdivision (k), formerly numbered subdivision (j), and section 84303.

COUNT 14: In a post-election semi-annual campaign statement filed on March 23, 2000, covering the period October 20, 1999 to December 31, 1999, Respondents Committee for Measure B: Measure B for Berryessa and Lawrence S. Nichols failed to disclose the date each contribution was received from a contributor of \$100 or more, and the cumulative amount of contributions received from each contributor, in violation of section 84211, subdivision (f).

COUNT 15: Respondents Yes on Measure G and Lawrence S. Nichols failed to file a semi-annual campaign statement for the reporting period January 1, 2000 to June 30, 2000, by the July 31, 2000 due date, in violation of section 84200, subdivision (a).

COUNT 16: Respondents Committee for Measure B: Measure B for Berryessa and Lawrence S. Nichols failed to file a semi-annual campaign statement for the reporting period January 1, 2000 to June 30, 2000, by the July 31, 2000 due date, in violation of section 84200, subdivision (a).

COUNT 17: Respondents Yes on Measure G and Lawrence S. Nichols failed to file a semi-annual campaign statement for the reporting period July 1, 2000 to December 31, 2000, by the January 31, 2001 due date,

in violation of section 84200, subdivision (a).

COUNT 18: Respondents Committee for Measure B: Measure B for Berryessa and Lawrence S. Nichols failed to file a semi-annual campaign statement for the reporting period July 1, 2000 to December 31, 2000, by the January 31, 2001 due date, in violation of section 84200, subdivision (a).

COUNT 19: Respondents Yes on Measure G and Lawrence S. Nichols failed to file a semi-annual campaign statement for the reporting period January 1, 2001 to June 30, 2001, by the July 31, 2001 due date, in violation of section 84200, subdivision (a).

COUNT 20: Respondents Committee for Measure B: Measure B for Berryessa and Lawrence S. Nichols failed to file a semi-annual campaign statement for the reporting period January 1, 2001 to June 30, 2001, by the July 31, 2001 due date, in violation of section 84200, subdivision (a).

COUNT 21: Respondents Yes on Measure G and Lawrence S. Nichols failed to file a semi-annual campaign statement for the reporting period July 1, 2001 to December 31, 2001, by the January 31, 2002 due date, in violation of Section 84200, subdivision (a).

COUNT 22: Respondents Committee for Measure B: Measure B for Berryessa and Lawrence S. Nichols failed to file a semi-annual campaign statement for the reporting period July 1, 2001 to December 31, 2001, by the January 31, 2002 due date, in violation of section 84200, subdivision (a).

COUNT 23: Respondents Yes on Measure G and Lawrence S. Nichols failed to file a semi-annual campaign statement for the reporting period January 1, 2002 to June 30, 2002, by the July 31, 2002 due date, in violation of section 84200, subdivision (a).

COUNT 24: Respondents Committee for Measure B: Measure B for Berryessa and Lawrence S. Nichols failed to file a semi-annual campaign statement for the reporting period January 1, 2002 to June 30, 2002, by the July 31, 2002 due date, in violation of section 84200, subdivision (a).

COUNT 25: Respondents Yes on Measure G and Lawrence S. Nichols failed to file a semi-annual campaign statement for the reporting period July 1, 2002 to December 31, 2002, by the January 31, 2003 due date, in violation of section 84200, subdivision (a).

COUNT 26: Respondents Committee for Measure B: Measure B for Berryessa

and Lawrence S. Nichols failed to file a semi-annual campaign statement for the reporting period July 1, 2002 to December 31, 2002, by the January 31, 2003 due date, in violation of section 84200, subdivision (a).

PROCEDURAL HISTORY

In October 1998, the Enforcement Division of the Fair Political Practices Commission (the “Commission”) received a complaint against Respondent Yes on Measure G. This was followed in March 2000, with a related complaint against Respondent Committee for Measure B: Measure B for Berryessa. The Enforcement Division completed its investigation of the two complaints in 2001. In February 2003, after efforts to resolve the matter through a stipulated settlement failed, the Enforcement Division initiated a formal enforcement action with the service of a Report in Support of a Finding of Probable Cause on February 22, 2003. None of the Respondents requested a probable cause conference or filed a written response to the probable cause report. In March 2003, the Enforcement Division filed an Ex Parte Request for a finding of probable cause as to each of the 26 counts alleged in the probable cause report, based solely on the information contained in the probable cause report. A copy of the Ex Parte Request was mailed to each of the Respondents. The Respondents did not make an objection to the probable cause order being issued. In April 2003, the Executive Director issued an Order Finding Probable Cause, determining that there was probable cause to believe Respondents committed 26 violations of the Act, as alleged in the probable cause report.

In January 2005, an Accusation was personally served on each of the Respondents. Pursuant to the California Administrative Procedure Act (the “APA”),² a respondent is entitled to a hearing on the merits of an Accusation if the respondent files a Notice of Defense within 15 days after service of the Accusation. (Section 11506.) The APA further provides that a respondent’s failure to file a Notice of Defense within 15 days after service of an Accusation constitutes a waiver of the respondent’s right to a hearing. (Section 11506, subd. (c).) A default decision may be issued if the respondent fails to file a Notice of Defense within 15 days of service of the Accusation. (Section 11520, subd. (a).) Along with the Accusation, Respondents were served with a “Statement to Respondent” that explained the statutory requirement that a respondent return a Notice of Defense within 15 days or else waive his or her right to a hearing. Respondents were also served with two copies of the Notice of Defense form, a copy of the Order Finding Probable Cause, and copies of relevant APA provisions.

The Accusation in this matter was personally served on Respondents Yes on Measure G, Committee for Measure B: Measure B for Berryessa, and Lawrence S. Nichols on January 24, 2005. The proof of service is attached hereto as Attachment A. Along with the Accusation, the Enforcement Division served each of the Respondents with a “Statement to Respondent” which notified the Respondents that they could request a hearing on the merits and warned the Respondents that, unless a Notice of Defense was sent within fifteen days of service of the Accusation, they would be deemed to have waived their right to a hearing.

² The California Administrative Procedure Act is contained in Government Code sections 11370 through 11529.

More than fifteen days have now elapsed and none of the Respondents has filed a Notice of Defense. Since the probable cause report was served, the Enforcement Division has had no contact with the Respondents.

SUMMARY OF THE LAW

Duty to File Periodic Campaign Statements

An express purpose of the Act, as set forth in section 81002, subdivision (a), is to ensure that receipts and expenditures in election campaigns are fully and truthfully disclosed to the public, so that voters may be fully informed, and improper practices may be inhibited. The Act therefore establishes a campaign reporting system designed to accomplish this purpose of disclosure.

Duty to File Campaign Statements

Section 82013, subdivision (a) defines a “committee” as any person or combination of persons who directly or indirectly receives contributions totaling one thousand dollars (\$1,000) or more in a calendar year. This type of committee is commonly referred to as a “recipient committee.”

Under the Act, there are different kinds of recipient committees, depending upon the activities of the committee. Under section 82047.5, subdivision (b), a recipient committee that is formed or exists primarily to support or oppose a single measure is a “primarily formed committee.”

Any person or persons who constitutes a committee, pursuant to section 82013, subdivision (a), is required to file certain campaign reports and statements disclosing the campaign activity of the recipient committee. Under section 82013 and regulation 18404, subdivision (b), a recipient committee’s filing obligations continue in effect, until such time as that committee is legally terminated. Section 84214, as interpreted by regulation 18404, provides that a recipient committee is not legally terminated until the committee’s treasurer files a termination statement on behalf of the committee, declaring that all of the pre-conditions for termination have been met.

Section 84215, subdivision (d) requires a committee formed or existing primarily to support or oppose local measures to be voted upon in any number of jurisdictions within one county to file its campaign statements with the clerk of the county.

Duty to File Semi-Annual Campaign Statements

Section 84200, subdivision (a) requires a recipient committee to file two semi-annual campaign statements each year. The first semi-annual campaign statement covers the reporting period January 1 to June 30, and must be filed by July 31. The second semi-annual campaign statement covers the reporting period July 1 to December 31, and must be filed by January 31 of

the following year. Whenever a filing deadline falls on a Saturday, Sunday, or legal holiday, regulation 18116 extends the filing deadline to the next regular business day.

Duty to File Pre-Election Campaign Statements

Section 84200.5 requires a recipient committee primarily formed to support or oppose a measure being voted upon on a date other than the first Tuesday after the first Monday in June or November of an even-numbered year to file pre-election statements. The committee shall file the pre-election statements according to the schedule set forth at section 84200.8. Under section 84200.8, subdivision (a), a recipient committee shall file a first pre-election campaign statement for the reporting period ending forty-five (45) days before the election, no later than forty (40) days before the election. Section 84200.8, subdivision (b) requires a committee to file a second pre-election statement for the reporting period ending 17 days before the election, no later than 12 days before the election.

Duty to Itemize Contributor Information on Campaign Statements

Section 84211, subdivision (f) requires that on campaign statements, a recipient committee and its treasurer must report the following information about any person who has contributed \$100 or more to the committee, and has made a contribution to the committee during the reporting period covered by the campaign statement: (1) the contributor's full name; (2) the contributor's street address; (3) the contributor's occupation; (4) the name of the contributor's employer, or if self-employed, the name of the contributor's business; (5) the date and amount of each contribution received from the contributor during the reporting period; and (6) the cumulative amount of contributions received from the contributor.

Duty to Report Payments Made to Sub-Vendors

Section 84211, subdivision (j), as it existed in 1998, requires the disclosure of specific information for all expenditures of \$100 or more made during the period covered by a campaign statement, including the name and street address of the person to whom the expenditure has been made, the amount of the expenditure, and a brief description of the consideration that was received for the expenditure.

Section 84303, as it existed in 1998, provides that no expenditure shall be made, other than for overhead and normal operating expenses, by an agent or independent contractor, including, but not limited to, an advertising agency, on behalf of, or for the benefit of, any committee, unless it is reported by the committee as if the expenditure was made directly by the committee. Persons to whom expenditures are made through an agent or independent contractor on behalf of a committee are commonly referred to as "sub-vendors."

Treasurer Liability

Under section 84100 and regulation 18427, subdivision (a), it is the duty of a committee's treasurer to ensure that all requirements of the Act concerning the receipt and expenditure of funds, and the reporting of such funds, are complied with. Pursuant to sections

83116.5 and 91006, a committee's treasurer may be held jointly and severally liable, along with the committee, for any reporting violations committed by the committee.

Pursuant to regulation 18426.1, with respect to any statements signed by the assistant treasurer, the assistant treasurer shall be jointly liable, along with the treasurer and the committee, for any reporting violations committed by the committee for which the treasurer would be liable.

SUMMARY OF THE FACTS

Counts Involving Yes on Measure G

The Berryessa Union School District is located in the City of San Jose, in the County of Santa Clara. On December 9, 1997, the Berryessa Union School District Board of Trustees passed a resolution calling for a \$50 million general obligation bond election to be held on April 14, 1998. The bond measure was designated as Measure G. Measure G did not pass. This was the second attempt by the Berryessa Union School District to raise funds for the school district. A parcel tax election, held previously, was also unsuccessful.

According to a statement of organization filed with the Secretary of State's office on January 21, 1998, Respondent Yes on Measure G qualified as a committee on January 9, 1998, and was primarily formed to support Measure G, a bond measure for the Berryessa Union School District on the April 14, 1998 ballot in Santa Clara County. Respondent Lawrence S. Nichols, also known as Larry Nichols ("Nichols"), was identified in the statement as the committee treasurer.

Respondent Yes on Measure G hired a professional political consultant, Terris & Jaye, to run the Measure G campaign. Nichols signed the contract with the consultant on behalf of the committee.

COUNTS 1 and 2

Failure to Properly Report Contributions in a Pre-Election Campaign Statement

Respondents Yes on Measure G and Nichols had a duty to disclose in the committee's campaign statements the occupation and employer information for each individual who contributed \$100 or more to Respondent Yes on Measure G. Records obtained from the Office of the Santa Clara County Registrar of Voters establish that before the April 14, 1998 election, Respondents Yes on Measure G and Nichols filed two pre-election campaign statements, on March 6, 1998 and April 2, 1998, respectively.

COUNT 1

According to the first pre-election campaign statement, filed on March 6, 1998, for the reporting period January 1, 1998 to February 28, 1998, Respondent Yes on Measure G received approximately 31 contributions of \$100 or more, totaling \$22,375, during the period covered by

the statement. Of those contributions, approximately 19 were received from individual contributors. Respondents failed to disclose the occupation and employer for the 19 individual contributors. The “occupation and employer” column in the campaign statement was left blank.

By failing to disclose occupation and employer information for approximately 19 individual contributors of \$100 or more in the above-described first pre-election campaign statement, Respondents Yes on Measure G and Nichols violated section 84211, subdivision (f).

COUNT 2

According to the second pre-election campaign statement, filed on April 2, 1998, for the reporting period March 1, 1998 to March 28, 1998, Respondent Yes on Measure G received approximately 34 contributions of \$100 or more, totaling \$25,148, during the period covered by the statement. Of those contributions, approximately 8 were received from individual contributors. Respondents failed to disclose the occupation and employer for the 8 individual contributors. The “occupation and employer” column in the campaign statement was left blank.

By failing to disclose occupation and employer information for approximately 8 individual contributors of \$100 or more in the above-described second pre-election campaign statement, Respondents Yes on Measure G and Nichols violated section 84211, subdivision (f).

COUNT 3

Failure to Timely File a Post-Election Semi-Annual Campaign Statement

After the April 14, 1998 election, Respondents Yes on Measure G and Nichols had a duty to file a post-election semi-annual campaign statement by July 31, 1998, for the reporting period March 29, 1998 to June 30, 1998. Records obtained from the office of the Santa Clara County Registrar of Voters establish that Respondents did not file a semi-annual campaign statement by the July 31, 1998 due date, in violation of section 84200, subdivision (a).

On February 11, 1999, Political Reform Consultant Colleen McGee of the Enforcement Division contacted Respondent Nichols by telephone regarding his failure to file the semi-annual campaign statement. Respondent Nichols told Ms. McGee that he forgot to file the statement, and would file it within two weeks. He did not do so. On April 13, 1999, Ms. McGee sent a letter to Respondent Nichols, asking him to file the delinquent campaign statement. Receiving no response to her letter, on May 5, 1999, Ms. McGee contacted Respondent Nichols by telephone. Respondent Nichols told Ms. McGee that he would file by “tomorrow.” He did not do so. On or about June 1, 1999, Ms. McGee checked with the Santa Clara County Registrar of Voters, and learned that there was no record of such a campaign statement being on file. On or about that same day, Ms. McGee contacted Respondent Nichols by telephone. Respondent Nichols told Ms. McGee that he had filed the statement on May 26, 1999. However, he was not able to provide a copy of the purported campaign statement to Ms. McGee.

On February 16, 2000, Investigator William Motmans of the Enforcement Division sent a letter to Respondent Nichols, urging him to file the delinquent semi-annual campaign statement. In addition, Investigator Motmans left four messages on Respondent Nichols’ home answering

machine between February 24, 2000 and March 14, 2000. On March 16, 2000, Investigator Motmans spoke to Respondent Nichols, who stated that he would file the campaign statement by March 20, 2000. During the conversation with Investigator Motmans, Respondent Nichols acknowledged his many contacts with Colleen McGee during the previous year, and that he had received the letter and voice mail messages from Investigator Motmans.

Respondents filed the post-election semi-annual campaign statement, for the reporting period March 29, 1998 to June 30, 1998, on March 23, 2000, twenty months late. According to the statement, Respondents received \$19,530 in contributions, and made \$48,067 in expenditures during the period covered by the campaign statement, leaving an ending cash balance of \$6,446.

By failing to timely file the above-described post-election semi-annual campaign statement, Respondents Yes on Measure G and Nichols violated section 84200, subdivision (a).

COUNT 12

Failure to Properly Report Contributions in a Semi-Annual Campaign Statement

Respondents Yes on Measure G and Nichols had a duty to disclose in the committee's campaign statements the occupation and employer information for each individual who contributed \$100 or more to Respondent Yes on Measure G, as well as the cumulative amount of contributions received from each contributor.

On March 23, 2000, according to records obtained from the Office of the Santa Clara County Registrar of Voters, Respondents Yes on Measure G and Nichols filed a semi-annual campaign statement, for the reporting period March 29, 1998 to June 30, 1998. According to that campaign statement, Respondent Yes on Measure G received approximately 12 contributions of \$100 or more, totaling \$19,530, during the period covered by the statement. Of those contributions, approximately 5 were received from individual contributors. Respondents failed to disclose the occupation and employer for the 5 individual contributors, as well as the cumulative amount of contributions received from the 12 contributors. The "occupation and employer" and "cumulative to date" columns in the campaign statement were left blank.

By failing to disclose occupation and employer information for approximately 5 individual contributors of \$100 or more, as well as the cumulative amount of contributions received from the contributors, in the above-described semi-annual campaign statement, Respondents Yes on Measure G and Nichols violated section 84211, subdivision (f).

COUNT 13

Failure to Report Sub-Vendor Information in a Semi-Annual Campaign Statement

Respondents Yes on Measure G and Nichols had a duty to report in the committee's campaign statements specified information for any campaign expenditure of \$100 or more made by an agent of Respondent Yes on Measure G, on its behalf.

On March 23, 2000, according to records obtained from the Office of the Santa Clara

County Registrar of Voters, Respondents Yes on Measure G and Nichols filed a semi-annual campaign statement, for the reporting period March 29, 1998 to June 30, 1998. During that period, according to the semi-annual campaign statement, Respondents made \$48,067 in expenditures related to the election. One of the expenditures disclosed in the statement was a \$36,273 payment to campaign consultants, Terris & Jaye. According to business records produced by Terris & Jaye regarding the Measure G campaign in San Jose, Terris & Jaye made payments to various sub-vendors on behalf of Respondent Yes on Measure G, for voter list acquisitions, photography, printing, and mailing services. Respondents failed to report expenditures of \$100 or more that were made by Terris & Jaye, on behalf of Respondent Yes on Measure G, in the semi-annual campaign statement.

By failing to report specified sub-vendor information for a \$36,273 payment to Terris & Jaye in a semi-annual campaign statement filed on March 23, 2000, Respondents Yes on Measure G and Nichols violated sections 84211, subdivision (k) and 84303.

COUNTS 4, 5, 10, 15, 17, 19, 21, 23, 25
Failure to File Semi-Annual Campaign Statements

Respondents Yes on Measure G and Nichols had a duty to file semi-annual campaign statements on behalf of Respondent Yes on Measure G during each year of the committee's existence. As of December 17, 2002, according to a letter from Mary Watson, Santa Clara County Deputy Registrar of Voters, Respondents have not filed semi-annual campaign statements for the years 2000, 2001, and 2002, and have not filed a statement of termination for Respondent Yes on Measure G, ending the committee's filing obligations.

COUNT 4

Respondents Yes on Measure G and Nichols had a duty to file a semi-annual campaign statement, for the reporting period July 1, 1998 to December 31, 1998, by February 1, 1999. Records obtained from the office of the Santa Clara County Registrar of Voters establish that Respondents did not file a semi-annual campaign statement by the February 1, 1999 due date, in violation of section 84200, subdivision (a).

On December 28, 2000, Santa Clara County Registrar of Voters Kathryn J. Ferguson sent a letter to Respondent Nichols, stating that the semi-annual campaign statement for the reporting period July 1, 1998 to December 31, 1998 was overdue, and asking that he file the delinquent campaign statement within ten days. On April 9, 2001, Ms. Ferguson sent a second notification letter to Respondent Nichols that the statement was overdue, and advised him of the late filing fee. Respondent Nichols did not respond to the notices. As of December 17, 2002, according to a letter from Mary Watson, Santa Clara County Deputy Registrar of Voters, Respondents still have not filed this semi-annual campaign statement.

By failing to file the above-described semi-annual campaign statement, Respondents Yes on Measure G and Nichols violated section 84200, subdivision (a).

COUNT 5

Respondents Yes on Measure G and Nichols had a duty to file a semi-annual campaign statement, for the reporting period January 1, 1999 to June 30, 1999, by August 2, 1999. Records obtained from the office of the Santa Clara County Registrar of Voters establish that Respondents did not file a semi-annual campaign statement by the August 2, 1999 due date, in violation of section 84200, subdivision (a).

On December 28, 2000, Santa Clara County Registrar of Voters Kathryn J. Ferguson sent a letter to Respondent Nichols, stating that the semi-annual campaign statement for the reporting period January 1, 1999 to June 30, 1999 was overdue, and asking that he file the delinquent campaign statement within ten days. On April 9, 2001, Ms. Ferguson sent a second notification letter to Respondent Nichols that the statement was overdue, and advised him of the late filing fee. Respondent Nichols did not respond to the notices. As of December 17, 2002, according to a letter from Mary Watson, Santa Clara County Deputy Registrar of Voters, Respondents still have not filed this semi-annual campaign statement.

By failing to file the above-described semi-annual campaign statement, Respondents Yes on Measure G and Nichols violated section 84200, subdivision (a).

COUNT 10

Respondents Yes on Measure G and Nichols had a duty to file a semi-annual campaign statement, for the reporting period July 1, 1999 to December 31, 1999, by January 31, 2000. Records obtained from the office of the Santa Clara County Registrar of Voters establish that Respondents did not file a semi-annual campaign statement by the January 31, 2000 due date, in violation of section 84200, subdivision (a).

On December 28, 2000, Santa Clara County Registrar of Voters Kathryn J. Ferguson sent a letter to Respondent Nichols, stating that the semi-annual campaign statement for the reporting period July 1, 1999 to December 31, 1999 was overdue, and asking that he file the delinquent campaign statement within ten days. On April 9, 2001, Ms. Ferguson sent a second notification letter to Respondent Nichols that the statement was overdue, and advised him of the late filing fee. Respondent Nichols did not respond to the notices. As of December 17, 2002, according to a letter from Mary Watson, Santa Clara County Deputy Registrar of Voters, Respondents still have not filed this semi-annual campaign statement.

By failing to file the above-described semi-annual campaign statement, Respondents Yes on Measure G and Nichols violated section 84200, subdivision (a).

COUNT 15

Respondents Yes on Measure G and Nichols had a duty to file a semi-annual campaign statement, for the reporting period January 1, 2000 to June 30, 2000, by July 31, 2000. Records obtained from the office of the Santa Clara County Registrar of Voters establish that

Respondents did not file a semi-annual campaign statement by the July 31, 2000 due date, in

violation of section 84200, subdivision (a).

On December 28, 2000, Santa Clara County Registrar of Voters Kathryn J. Ferguson sent a letter to Respondent Nichols, stating that the semi-annual campaign statement for the reporting period January 1, 2000 to June 30, 2000 was overdue, and asking that he file the delinquent campaign statement within ten days. On April 9, 2001, Ms. Ferguson sent a second notification letter to Respondent Nichols that the statement was overdue, and advised him of the late filing fee. Respondent Nichols did not respond to the notices. In addition to the filing clerk's efforts, on February 13, 2001, Investigator William Motmans of the Enforcement Division sent a letter to Respondent Nichols regarding Respondents' failure to file the semi-annual campaign statement. Respondent Nichols did not respond to the letter.

By failing to file the above-described semi-annual campaign statement, Respondents Yes on Measure G and Nichols violated section 84200, subdivision (a).

COUNT 17

Respondents Yes on Measure G and Nichols had a duty to file a semi-annual campaign statement, for the reporting period July 1, 2000 to December 31, 2000, by January 31, 2001. Records obtained from the office of the Santa Clara County Registrar of Voters establish that Respondents did not file a semi-annual campaign statement by the January 31, 2001 due date, in violation of section 84200, subdivision (a).

On February 13, 2001, Investigator William Motmans of the Enforcement Division sent a letter to Respondent Nichols regarding Respondents' failure to file the semi-annual campaign statement. Respondent Nichols did not respond to the letter.

By failing to file the above-described semi-annual campaign statement, Respondents Yes on Measure G and Nichols violated section 84200, subdivision (a).

COUNT 19

Respondents Yes on Measure G and Nichols had a duty to file a semi-annual campaign statement, for the reporting period January 1, 2001 to June 30, 2001, by July 31, 2001. Records obtained from the office of the Santa Clara County Registrar of Voters establish that Respondents did not file a semi-annual campaign statement by the July 31, 2001 due date, in violation of section 84200, subdivision (a).

By failing to file the above-described semi-annual campaign statement, Respondents Yes on Measure G and Nichols violated section 84200, subdivision (a).

COUNT 21

Respondents Yes on Measure G and Nichols had a duty to file a semi-annual campaign statement, for the reporting period July 1, 2001 to December 31, 2001, by January 31, 2002. Records obtained from the office of the Santa Clara County Registrar of Voters establish that

Respondents did not file a semi-annual campaign statement by the January 31, 2002 due date, in violation of section 84200, subdivision (a).

By failing to file the above-described semi-annual campaign statement, Respondents Yes on Measure G and Nichols violated section 84200, subdivision (a).

COUNT 23

Respondents Yes on Measure G and Nichols had a duty to file a semi-annual campaign statement, for the reporting period January 1, 2002 to June 30, 2002, by July 31, 2002. Records obtained from the office of the Santa Clara County Registrar of Voters establish that Respondents did not file a semi-annual campaign statement by the July 31, 2002 due date, in violation of section 84200, subdivision (a).

By failing to file the above-described semi-annual campaign statement, Respondents Yes on Measure G and Nichols violated section 84200, subdivision (a).

COUNT 25

Respondents Yes on Measure G and Nichols had a duty to file a semi-annual campaign statement, for the reporting period July 1, 2002 to December 31, 2002, by January 31, 2003. Records obtained from the office of the Santa Clara County Registrar of Voters establish that Respondents did not file a semi-annual campaign statement by the January 31, 2003 due date, in violation of section 84200, subdivision (a).

On January 2, 2003, Senior Commission Counsel Deanne Canar of the Enforcement Division called Pat Stelwagon, the former Assistant Superintendent of the Berryessa Union School District, asking for her assistance in obtaining Respondents' compliance with the Act. In addition to being the school district's Assistant Superintendent during the campaign, Pat Stelwagon was an active participant in the operation of Respondent Yes on Measure G. Ms. Canar asked that Respondents file the semi-annual campaign statement for the reporting period July 1, 2002 to December 31, 2002, by January 31, 2003, so as not to incur any further reporting violations. Between January 2, 2003 and January 28, 2003, there were six contacts between Ms. Canar and Pat Stelwagon, by telephone or by e-mail. On February 7, 2003, Pat Stelwagon sent an e-mail message to Ms. Canar, in which she stated that Respondents did not meet the January 31, 2003 filing due date, and had not yet filed the campaign statement.

By failing to file the above-described semi-annual campaign statement, Respondents Yes on Measure G and Nichols violated section 84200, subdivision (a).

Counts Involving Committee for Measure B: Measure B for Berryessa

Following the defeat of school bond Measure G, the Berryessa Union School District Board of Trustees passed another resolution calling for a \$48 million general obligation bond election to be held on November 2, 1999. The bond measure was designated as Measure B. The election was held on November 2, 1999. Measure B passed.

According to a statement of organization filed with the Secretary of State's office on September 3, 1999, Respondent Committee for Measure B: Measure B for Berryessa ("Committee for Measure B") qualified as a committee on September 1, 1999, and was primarily formed to support Measure B, a Berryessa Union School District bond measure. Respondent Nichols was identified in the statement as the committee treasurer.

Respondent Committee for Measure B retained the services of a professional political consultant, Larry Tramultola, of the Tramultola Company, to run the campaign. Pat Stelwagon signed the contract with the consultant on behalf of the committee.

COUNTS 6 and 7

Failure to Timely File Pre-Election Campaign Statements

As a recipient committee primarily formed to support the passage of a local ballot measure, Respondent Committee for Measure B, and its treasurer Respondent Nichols, were required to file pre-election campaign statements before the November 2, 1999 election, disclosing the contribution and expenditure activity of Respondent Committee for Measure B.

Records maintained by the Santa Clara County Registrar of Voters stated, that as of October 25, 1999, Respondent Committee for Measure B had not filed any pre-election campaign statements with that filing officer. A handwritten notation in the records stated that "DB" advised a member of Respondent Committee for Measure B's campaign staff of the filing requirement.

COUNT 6

Respondents Committee for Measure B and Nichols had a duty to file a first pre-election campaign statement, for the reporting period January 1, 1999 to September 18, 1999, by September 23, 1999. Records obtained from the office of the Santa Clara County Registrar of Voters establish that Respondents did not file a first pre-election campaign statement by the September 23, 1999 due date, in violation of section 84200.8, subdivision (a).

Respondents filed the first pre-election campaign statement the day before the election, on November 1, 1999, 41 days late. According to the statement, which purported to cover the period August 1, 1999 to September 21, 1999, Respondent Committee for Measure B received \$3,435 in contributions, and made no expenditures related to the upcoming November election during the period covered by the statement.³

By failing to timely file the above-described first pre-election campaign statement, Respondents Committee for Measure B and Nichols violated section 84200.8, subdivision (a).

³ The correct reporting period was January 1 to September 18, 1999. Section 82046, subdivision (b) defines "period covered" by a campaign statement to mean the period beginning on the day after the closing date of the last statement required to be filed, and ending with the closing date of the statement in question. If no previous campaign statement has been filed, as was the case here, the period covered begins on January 1.

COUNT 7

Respondents Committee for Measure B and Nichols had a duty to file a second pre-election campaign statement, for the reporting period September 19, 1999 to October 16, 1999, by October 21, 1999. Records obtained from the office of the Santa Clara County Registrar of Voters establish that Respondents did not file a second pre-election campaign statement by the October 21, 1999 due date, in violation of section 84200.8, subdivision (b).

Respondents filed the second pre-election campaign statement the day before the election, on November 1, 1999, 6 days late. According to the statement, which purported to cover the period September 22, 1999 to October 19, 1999, Respondent Committee for Measure B received \$41,255 in contributions, and made \$18,744 in expenditures related to the upcoming November election during the period covered by the statement.⁴

By failing to timely file the above-described second pre-election campaign statement, Respondents Committee for Measure B and Nichols violated section 84200.8, subdivision (b).

COUNTS 8 and 9

Failure to Properly Report Contributions in a Pre-Election Campaign Statement

Respondents Committee for Measure B and Nichols had a duty to disclose in the committee's campaign statements the occupation and employer information for each individual who contributed \$100 or more to Respondent Committee for Measure B. Records obtained from the Office of the Santa Clara County Registrar of Voters establish that before the November 2, 1999 election, Respondents Committee for Measure B and Nichols filed two pre-election campaign statements, on November 1, 1999.

COUNT 8

According to the first pre-election campaign statement, filed on November 1, 1999, Respondent Committee for Measure B received approximately 8 contributions of \$100 or more, totaling \$3,435, during the period covered by the statement. Of those contributions, approximately 6 were received from individual contributors. Respondents Committee for Measure B and Nichols failed to disclose the occupation and employer for the 6 individual contributors. The "occupation and employer" column in the campaign statement was left blank.

By failing to disclose occupation and employer information for approximately 6 individual contributors of \$100 or more in the above-described first pre-election campaign statement, Respondents Committee for Measure B and Nichols violated section 84211, subdivision (f).

COUNT 9

According to the second pre-election campaign statement, filed on November 1, 1999, Respondent Committee for Measure B received approximately 19 contributions of \$100 or more,

⁴ The correct reporting period was September 19, 1999 to October 16, 1999.

totaling \$41,255, during the period covered by the statement. Of those contributions, approximately 8 were received from individual contributors. Respondents Committee for Measure B and Nichols failed to disclose the occupation and employer for the 8 individual contributors. The “occupation and employer” column in the campaign statement was left blank.

By failing to disclose occupation and employer information for approximately 8 individual contributors of \$100 or more in the above-described second pre-election campaign statement, Respondents Committee for Measure B and Nichols violated section 84211, subdivision (f).

COUNT 11

Failure to Timely File a Post-Election Semi-Annual Campaign Statement

After the November 2, 1999 election, Respondents Committee for Measure B and Nichols had a duty to file a post-election semi-annual campaign statement by January 31, 2000, for the reporting period October 17, 1999 to December 31, 1999. Records obtained from the office of the Santa Clara County Registrar of Voters establish that Respondents did not file a semi-annual campaign statement by the January 31, 2000 due date, in violation of section 84200, subdivision (a).

On March 13, 2000, Santa Clara County Registrar of Voters Kathryn J. Ferguson sent a letter to Respondent Nichols, stating that the semi-annual campaign statement for the reporting period October 17, 1999 to December 31, 1999, was overdue, and asking that he file the statement within ten days. Respondents filed the post-election semi-annual campaign statement for the November 2, 1999 election, on March 23, 2000, 52 days late. According to the statement, which purported to cover the period October 20, 1999 to December 31, 1999,⁵ Respondent Committee for Measure B received \$15,500 in contributions, and made \$40,313 in expenditures, during the period covered by the statement, leaving a balance of \$1,133. The semi-annual campaign statement disclosed that, with a single exception, all of the contributions received by Respondent Committee for Measure B during the period covered by the statement had been reported in late contribution reports filed prior to the election. However, the vast majority of the committee's expenditures were disclosed for the first time in this campaign statement.

By failing to timely file the above-described post-election semi-annual campaign statement, Respondents Committee for Measure B and Nichols violated section 84200, subdivision (a).

COUNT 14

Failure to Properly Report Contributions on a Semi-Annual Campaign Statement

Respondents Committee for Measure B and Nichols had a duty to disclose in the

⁵ The correct reporting period was October 17, 1999 to December 31, 1999.

committee's campaign statements the date each contribution was received from a contributor of \$100 or more to Respondent Committee for Measure B, as well as the cumulative amount of contributions received from each contributor.

On March 23, 2000, according to records obtained from the Office of the Santa Clara County Registrar of Voters, Respondents Committee for Measure B and Nichols filed a semi-annual campaign statement, purporting to cover the period October 20, 1999 to December 31, 1999. According to that campaign statement, Respondent Committee for Measure B received approximately 11 contributions of \$100 or more, totaling \$15,500, during the period covered by the statement. For each of the 11 contributions, Respondents failed to disclose the date each contribution was received and the cumulative amount of contributions received from each contributor. The "date received" and "cumulative to date" columns in the campaign statement were left blank.

By failing to disclose the date each contribution was received from approximately 11 contributors of \$100 or more, as well as the cumulative amount of contributions received from each contributor, in the above-described semi-annual campaign statement, Respondents Committee for Measure B and Nichols violated section 84211, subdivision (f).

COUNTS 16, 18, 20, 22, 24, 26

Failure to File Semi-Annual Campaign Statements

Respondents Committee for Measure B and Nichols had a duty to file semi-annual campaign statements on behalf of Respondent Committee for Measure B during each year of the committee's existence. As of December 17, 2002, according to a letter from Mary Watson, Santa Clara County Deputy Registrar of Voters, Respondents have not filed semi-annual campaign statements for the years 2000, 2001, and 2002, and have not filed a statement of termination for Respondent Committee for Measure B, ending the committee's filing obligations.

COUNT 16

Respondents Committee for Measure B and Nichols had a duty to file a semi-annual campaign statement, for the reporting period January 1, 2000 to June 30, 2000, by July 31, 2000. Records obtained from the office of the Santa Clara County Registrar of Voters establish that Respondents did not file a semi-annual campaign statement by the July 31, 2000 due date, in violation of section 84200, subdivision (a).

On December 28, 2000, Santa Clara County Registrar of Voters Kathryn J. Ferguson sent a letter to Respondent Nichols, stating that the semi-annual campaign statement for the reporting period January 1, 2000 to June 30, 2000 was overdue, and asking that he file the delinquent campaign statement within ten days. On April 9, 2001, Ms. Ferguson sent a second notification letter to Respondent Nichols that the statement was overdue, and advised him of the late filing fee. Respondent Nichols did not respond to the notices. In addition to the filing clerk's efforts, on February 13, 2001, Investigator William Motmans of the Enforcement Division sent a letter to Respondent Nichols regarding Respondents' failure to file the semi-annual campaign statement. Respondent Nichols did not respond to the letter.

By failing to file the above-described semi-annual campaign statement, Respondents Committee for Measure B and Nichols violated section 84200, subdivision (a).

COUNT 18

Respondents Committee for Measure B and Nichols had a duty to file a semi-annual campaign statement, for the reporting period July 1, 2000 to December 31, 2000, by January 31, 2001. Records obtained from the office of the Santa Clara County Registrar of Voters establish that Respondents did not file a semi-annual campaign statement by the January 31, 2001 due date, in violation of section 84200, subdivision (a).

On February 13, 2001, Investigator William Motmans of the Enforcement Division sent a letter to Respondent Nichols regarding Respondents' failure to file the semi-annual campaign statement. Respondent Nichols did not respond to the letter.

By failing to file the above-described semi-annual campaign statement, Respondents Committee for Measure B and Nichols violated section 84200, subdivision (a).

COUNT 20

Respondents Committee for Measure B and Nichols had a duty to file a semi-annual campaign statement, for the reporting period January 1, 2001 to June 30, 2001, by July 31, 2001. Records obtained from the office of the Santa Clara County Registrar of Voters establish that Respondents did not file a semi-annual campaign statement by the July 31, 2001 due date, in violation of section 84200, subdivision (a).

By failing to file the above-described semi-annual campaign statement, Respondents Committee for Measure B and Nichols violated section 84200, subdivision (a).

COUNT 22

Respondents Committee for Measure B and Nichols had a duty to file a semi-annual campaign statement, for the reporting period July 1, 2001 to December 31, 2001, by January 31, 2002. Records obtained from the office of the Santa Clara County Registrar of Voters establish that Respondents did not file a semi-annual campaign statement by the January 31, 2002 due date, in violation of section 84200, subdivision (a).

By failing to file the above-described semi-annual campaign statement, Respondents Committee for Measure B and Nichols violated section 84200, subdivision (a).

COUNT 24

Respondents Committee for Measure B and Nichols had a duty to file a semi-annual campaign statement, for the reporting period January 1, 2002 to June 30, 2002, by July 31, 2002. Records obtained from the office of the Santa Clara County Registrar of Voters establish that

Respondents did not file a semi-annual campaign statement by the July 31, 2002 due date, in violation of section 84200, subdivision (a).

By failing to file the above-described semi-annual campaign statement, Respondents Committee for Measure B and Nichols violated section 84200, subdivision (a).

COUNT 26

Respondents Committee for Measure B and Nichols had a duty to file a semi-annual campaign statement, for the reporting period July 1, 2002 to December 31, 2002, by January 31, 2003. Records obtained from the office of the Santa Clara County Registrar of Voters establish that Respondents did not file a semi-annual campaign statement by the January 31, 2003 due date, in violation of section 84200, subdivision (a).

On January 2, 2003, Senior Commission Counsel Deanne Canar of the Enforcement Division called Pat Stelwagon, asking for her assistance in obtaining Respondents' compliance with the Act. In addition to being the Berryessa Union School District's Assistant Superintendent during the campaign, Pat Stelwagon was an active participant in the operation of Respondent Committee for Measure B. Ms. Canar asked that Respondents file the semi-annual campaign statement for the reporting period July 1, 2002 to December 31, 2002, by January 31, 2003, so as not to incur any further reporting violations. Between January 2, 2003 and January 28, 2003, there were six contacts between Ms. Canar and Pat Stelwagon, by telephone or by e-mail. On February 7, 2003, Pat Stelwagon sent an e-mail message to Ms. Canar, in which she stated that Respondents did not meet the January 31, 2003 filing due date, and had not yet filed the campaign statement.

By failing to file the above-described semi-annual campaign statement, Respondents Committee for Measure B and Nichols violated section 84200, subdivision (a).

CONCLUSION

This matter consists of twenty-six counts, which carry a maximum possible administrative penalty of Fifty-Two Thousand Dollars (\$52,000).

This case involves two types of violations, the violations that occurred before and immediately following the election, and the violations that accumulated because of the failure of either committee to file a statement of termination.

As to the violations occurring in the context of an election, the violations resulted in significant public harm. The post-election semi-annual campaign statement for Respondent Yes on Measure G and the pre-election campaign statements for Respondent Committee for Measure B were filed too late to be of much value to the voting public. Moreover, the violations were the product of, at least, gross negligence, if not willfulness. In 1998 and again in 1999, professional consultants were used to run the bond measure campaigns. As such, Respondents knew, or should have known, of the reporting requirements of the Political Reform Act. Respondents disregard for the law continues to persist, despite repeated admonishments by filing officers and

Commission staff that they come into compliance with the law. The imposition of a maximum penalty of \$2,000 for each campaign filing and reporting violation is appropriate. For Respondents Yes on Measure G and Nichols, this would be Counts 1, 2, 3, 12, and 13. For Respondents Committee for Measure B and Nichols, this would be Counts 6, 7, 8, 9, 11, and 14.

As to the violations that occurred well past the election, they were simply the product of Respondents' failure to terminate the filing obligations of either of the committees. As there was no campaign activity occurring during these subsequent years, there appears to be little public harm flowing from the failure to file these semi-annual campaign statements, so the imposition of a total penalty of \$2,000 for each committee is appropriate for these violations. For Respondents Yes on Measure G and Nichols, this would include Counts 4, 5, 10, 15, 17, 19, 21, 23, and 25. For Respondents Committee for Measure B and Nichols, this would include Counts 16, 18, 20, 22, 24, and 26.

The facts and circumstances of this case justify the imposition of an administrative penalty of Twenty-Six Thousand Dollars (\$26,000), allocated as follows: Twelve Thousand Dollars (\$12,000) against Respondents Yes on Measure G and Nichols, and Fourteen Thousand Dollars (\$14,000) against Respondents Committee for Measure B and Nichols.